

REMARKS / ARGUMENTS

Claims 1, 4-9 and 21 remain pending in this application. No claims have been canceled or added.

Interview

Applicants wish to thank the Examiner for conducting an interview with the undersigned. The following includes arguments presented during the interview.

35 U.S.C. §102

Claims 1, 4-9 and 21 stand rejected under 35 U.S.C. §102(e) as being anticipated by Troxel (U.S. Patent No. 6,147,970). These rejections are traversed as follows.

According to the present invention, as recited in claims 1, 6 and 21, preferential packet transferring of priority packets is enabled even in a "boundary marking case" in which packets are transmitted from user terminals without making any distinction between priority packets and non-priority packets in the packet headers (see specification, page 19, lines 12-21). According to the present invention, it is also possible to provide a communications service that can effectively use the contract bandwidth allocated to the priority packets by transmitting non-

priority packets within the contract bandwidth when the amount of priority packets is less than the contract bandwidth.

According to claim 4, preferential packet transferring of priority packets and effective use of the contract bandwidth can be realized not only in the "boundary marking case", but also in the "customer marking case" in which packets are transmitted by distinguishing between priority packets and non-priority packets, using DSCP in the packet headers (see specification, page 33, line 9 to page 34, line 19).

As stated by the Examiner, Troxel judges the priority of the packet according to a value in its header. For example, the priority of a packet could be determined based upon the CLP value in its header.

However, Troxel clearly fails to disclose or suggest the presently claimed combination which is applicable to the "boundary marking case" mentioned above. As such, Troxel also fails to disclose or suggest a bandwidth monitoring method that is applicable to both the "boundary marking case" and the "customer marking case". As mentioned above, in the "boundary marking case", packets are transmitted without distinguishing between priority packets and non-priority packets in packet headers. As such, it is submitted that the pending claims patentably define the present invention over the cited art.

Appl. No. 09/585,389
Amendment dated July 7, 2006
Reply to Office Action of January 9, 2006

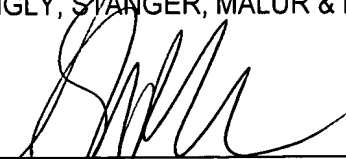
NIT-200

Conclusion

In view of the foregoing, Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.

By 

Shrinath Malur
Reg. No. 34,663
(703) 684-1120